

Hawaiian Homes Commission Act of 1920: ORIGINAL

Passed by the 67th U.S. Congress
Public Law No. 34 (S. 1881)

Approved by
U.S. President Warren G. Harding
On July 9, 1921

APPENDIX 2

HAWAIIAN HOMES COMMISSION ACT, 1920

[Public--No. 34--67th Congress]
[S. 1881]

An Act to amend an Act entitled "An Act to provide a government for the Territory of Hawaii," approved April 30, 1900, as amended, to establish an Hawaiian Homes Commission, granting certain powers to the board of harbor commissioners of the Territory of Hawaii, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

Title 1. -- Definitions.

Section 1. That this Act may be cited as the "Hawaiian Homes Commission Act, 1920."

Section 2. That when used in this Act the term "Hawaiian Organic Act" means the Act entitled "An Act to provide a government for the Territory of Hawaii," approved April 30, 1900, as amended.

Title 2. -- Hawaiian Homes Commission.

Section 201. (a) That when used in this title--

(1) The term "commission" means the Hawaiian Homes Commission;

(2) The term "public land" has the same meaning as defined in paragraph (3) of subdivision (a) of section 73 of the Hawaiian Organic Act;

(3) The term "fund" means the Hawaiian home loan fund;

(4) The term "Territory" means the Territory of Hawaii;

(5) The term "Hawaiian home lands" means all lands given the status of Hawaiian home lands under the provisions of section 204 of this title;

(6) The term "tract" means any tract of Hawaiian home lands leased, as authorized by section 207 of this title, or any portion of such tract; and

(7) The term "native Hawaiian" means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778.

(b) Any term defined or described in section 347 or 351 of the Revised Laws of Hawaii of 1915, except a term defined in subdivision (a) of this section, shall, whenever used in

this title, have the same meaning as given by such definition or description.

Sec. 202. (a) There is hereby established a commission to be known as the "Hawaiian Homes Commission" and to be composed of five members, as follows:

(1) The governor of the Territory, and

(2) Four citizens of the Territory to be appointed by the governor, by and with the advice and consent of the senate of the legislature of the Territory. At least three of the appointed members of the commission shall be native Hawaiians.

(b) Any vacancy in the office of an appointed member shall be filled in the same manner and under the same limitations as the original appointment.

(c) The governor of the Territory shall be the chairman of the commission. The commission shall designate one of its members to serve as the executive officer and secretary of the commission. The executive officer and secretary shall receive such annual salary, not to exceed \$6,000, as the commission may determine. The members of the commission, except the executive officer and secretary, shall receive an annual salary of \$500. Of the original appointed members of the commission, one shall be appointed for a term of one year, one for two years, one for three years, and one for four years. Their successors shall hold office for terms of four years, except that any member appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. A member may after due notice and public hearing be removed by the governor for neglect of duty or malfeasance in office, but for no other cause.

Sec. 203. All public lands of the description and acreage, as follows, excluding (a) all lands within any forest reservation, (b) all cultivated sugar-cane lands, and (c) all public lands held under a certificate of occupation, homestead lease, right of purchase lease, or special homestead agreement, are hereby designated, and hereinafter referred to, as "available lands":

(1) On the island of Hawaii: Kamaoa-Puueo (eleven thousand acres, more or less), in the district of Kau; Puukapu (twelve thousand acres, more or less); Kawaihae I (ten thousand acres, more or less), and Pauahi (seven hundred and fifty acres, more or less), in the district of South Kohala; Kamoku-Kapulena (five thousand acres, more or less), Waimanu (two hundred acres, more or less), and Nienie (seven thousand three hundred and fifty acres, more or less), in the district of Hamakua; fifty-three thousand acres to be selected by the commission from the lands of Humuula Mauka, in the

district of North Hilo; Panaewa, Waiakea (two thousand acres, more or less), Waiakea-kai, or Keaaukaha [sic] (two thousand acres, more or less), and two thousand acres of agricultural lands to be selected by the commission from the lands of Piihonua, in the district of South Hilo; and two thousand acres to be selected by the commission from the lands of Kaohe-Makuu, in the district of Puna;

(2) On the island of Maui: Kahikinui (twenty-five thousand acres, more or less) in the district of Kahikinui, and the public lands (six thousand acres, more or less) in the district of Kula;

(3) On the island of Molokai: Palaau (eleven thousand four hundred acres, more or less), Kapaakea (two thousand acres, more or less), Kalamaula (six thousand acres, more or less), Hoolehua (three thousand five hundred acres, more or less), Kamiloloa I and II (three thousand six hundred acres, more or less), and Makakupaia (two thousand two hundred acres, more or less); and Kalaupapa (five thousand acres, more or less);

(4) On the island of Oahu: Nanakuli (three thousand acres, more or less), and Lualualei (two thousand acres, more or less), in the district of Waianae; and Waimanalo (four thousand acres, more or less), in the district of Koolaupoko, excepting therefrom the military reservation and the beach lands; and

(5) On the island of Kauai: Upper land of Waimea, above the cultivated sugar cane lands, in the district of Waimea (fifteen thousand acres, more or less); and Moloaa (two thousand five hundred acres, more or less), and Anahola and Kamalomalo (five thousand acres, more or less).

Sec. 204. Upon the passage of this Act all available lands shall immediately assume the status of Hawaiian home lands and be under the control of the commission to be used and disposed of in accordance with the provisions of this title, except that--

(1) For a period of five years after the first meeting of the Hawaiian Homes Commission only those lands situate on the island of Molokai, which are particularly named in paragraphs 1 and 3 of section 203 hereof; Waimanu, in the district of Hamakua; Keaaukaha [sic], in the district of South Hilo; and Panaewa, Waiakea, in the district of South Hilo, island of Hawaii, shall be available for use and disposition by said commission under the provisions of this title and none of the remaining available lands named in said section 203 shall, after the expiration of the said five-year period, be leased, used, or otherwise disposed of by the commission under the provisions of this title, except by further authorization of Congress and with the written approval of the Secretary of the Interior of the United States.

(2) In case any available land is under lease at the time of the passage of this Act such land shall not assume the status of Hawaiian home lands until the lease expires or the commissioner of public lands withdraws the lands from the operation of the lease. If the land is covered by a lease containing a withdrawal clause as provided in subdivision (d) of section 73 of the Hawaiian Organic Act, the commissioner of public lands shall withdraw such lands from the operation of the lease whenever the commission with the approval of the Secretary of the Interior gives notice to him that the commission is of the opinion that the lands are required by it for leasing as authorized by the provisions of section 207, or for a community pasture as provided in section 211 of this title. Such withdrawal shall be held to be for a public purpose within the meaning of that term as used in subdivision (d) of section 73 of the Hawaiian Organic Act.

(3) In case any land is to be selected by the commission out of a larger area of available lands, such land shall not assume the status of Hawaiian home lands until the commission, with the approval of Secretary of the Interior, makes the selection and gives notice thereof to the commissioner of public lands. The commission shall give such notice within three years after the expiration of the five-year period referred to in paragraph 1 of this section. Any such notice given thereafter shall be deemed invalid and of no effect.

Sec. 205. Available lands shall be sold or leased only (1) in the manner and for the purposes set out in this title, or (2) as may be necessary to complete any valid agreement of sale or lease in effect at the time of the passage of this Act; except that such limitations shall not apply to the unselected portions of lands from which the commission has made a selection and given notice thereof, or failed so to select and give notice within the time limit, as provided in paragraph (3) of section 204 of this title.

Sec. 206. The powers and duties of the governor, the commissioner of public lands, and the board of public lands, in respect to lands of the Territory, shall not extend to lands having the status of Hawaiian home lands, except as specifically provided in this title.

Sec. 207. (a) The commission is authorized to lease to native Hawaiians the right to the use and occupancy of a tract of Hawaiian home lands within the following acreage limits:

(1) Not less than twenty nor more than eighty acres of agricultural lands; or

(2) Not less than one hundred nor more than five hundred acres of first-class pastoral lands; or

(3) Not less than two hundred and fifty nor more than one thousand acres of second-class pastoral lands.

(b) The title to lands so leased shall remain in the United States. Applications for tracts shall be made to and granted by the commission, under such regulations, not in conflict with any provision of this title, as the commission may prescribe. The commission shall, whenever tracts are available, enter into such a lease with any applicant who, in the opinion of the commission, is qualified to perform the conditions of such lease.

Sec. 208. Each lease made under the authority granted the commission by the provisions of section 207 of this title and the tract in respect to which the lease is made, shall be deemed subject to the following conditions, whether or not stipulated in the lease:

(1) The lessee shall be a native Hawaiian.

(2) The lessee shall pay a rental of \$1 a year for the tract and the lease shall be for a term of ninety-nine years;

(3) The lessee shall occupy and commence to use or cultivate the tract as his home or farm within one year after the lease is made;

(4) The lessee shall thereafter, for at least such part of each year as the commission shall by regulation prescribe, so occupy and use or cultivate the tract on his own behalf;

(5) The lessee shall not in any manner transfer to, or mortgage, pledge, or otherwise hold for the benefit of, any other person, except a native Hawaiian, and then only upon the approval of the commission, or agree so to transfer, mortgage, pledge, or otherwise hold his interest in the tract. Such interest shall not, except in pursuance of such a transfer, mortgage or pledge to or holding for or agreement with a native Hawaiian, be subject to attachment, levy, or sale upon court process. The lessee shall not sublet his interest in the tract or improvements thereon. Upon the death of the lessee his interest in the tract and improvements thereon shall vest under the limitations provided for homesteads in section 403 of the Revised Laws of Hawaii of 1915;

(6) The lessee shall pay all taxes assessed upon the tract and improvements thereon within sixty days after they became delinquent. If the lessee fails so to pay, the commission shall thereupon pay the taxes and have a lien therefor as provided in section 216 of this title;

(7) The lessee shall perform such other conditions, not in conflict with any provision of this title, as the commission may stipulate in the lease: Provided, however, That the lessee shall be exempt from all taxes for the first five years from date of lease.

Sec. 209. All successors, whether by agreement or process of law, to the interest of the lessee in any tract, shall be deemed to receive such interest subject to the conditions which would rest upon the lessee, if he then were the party holding the interest in the tract: Provided, That a successor receiving such interest by inheritance shall not, during the two years next following his inheritance, be deemed to have violated any of the conditions enumerated in section 208 of this title, even though he is not a native Hawaiian and does not on his own behalf occupy and use or cultivate the tract as a home or farm for such part of the year as the commission requires in accordance with the regulations prescribed by it under paragraph (4) of section 208 of this title.

Sec. 210. Whenever the commission has reason to believe that any condition enumerated in section 208, or any provision of section 209, of this title has been violated, the commission shall give due notice and afford opportunity for a hearing to the lessee of the tract in respect to which the alleged violation relates or to the successor of the lessee's interest therein, as the case demands. If upon such hearing the commission finds that the lessee or his successor has violated any condition in respect to the leasing of such tract, the commission may declare his interest in the tract and all improvements thereon to be forfeited and the lease in respect thereto canceled, and shall thereupon order the tract to be vacated within a reasonable time. The right to the use and occupancy of the Hawaiian home lands contained in such tract shall thereupon revert in the commission and the commission may take possession of the tract and the improvements thereon.

Sec. 211. The commission shall, when practicable, provide from the Hawaiian home lands a community pasture adjacent to each district in which agricultural lands are leased, as authorized by the provisions of section 207 of this title.

Sec. 212. The commission may return any Hawaiian home lands not leased as authorized by the provisions of section 207 of this title to the control of the commissioner of public lands. Any Hawaiian home lands so returned shall, until the commission gives notice as hereinafter in this section provided, resume and maintain the status of public lands in accordance with the provisions of the Hawaiian Organic Act and the Revised Laws of Hawaii of 1915, except that such lands may be disposed of under a general lease only. Each such lease, whether or not stipulated therein, shall be deemed subject to the right and duty of the commission of public lands to terminate the lease and return the lands to the commission whenever the commission, with the approval of the Secretary of the Interior, gives notice to him that the commission is of the opinion that the lands are required by it for leasing as authorized by the provisions of section 207 of this title or for a community pasture.

Sec. 213. There is hereby established in the treasury of the Territory a revolving fund, to be known as the "Hawaiian

home loan fund." The entire receipts derived from any leasing of public lands under the provisions of section 212 of this title and 30 per centum of the Territorial receipts derived from the leasing of cultivated sugar-cane lands under any other provision of the law or from water licenses shall be covered into the fund until the total amount of the moneys paid therein equals \$1,000,000.

Sec. 214. The commission is hereby authorized to make loans from the fund to the lessee of any tract or the successor to his interest therein. Such loans may be made for the following purposes:

- (1) The erection of dwellings on any tract and the undertaking of other permanent improvements thereon;
- (2) The purchase of live stock and farm equipment; and
- (3) Otherwise assisting in the development of tracts.

Sec. 215. Each contract of loan with the lessee or the successor to his interest in the tract shall be held subject to the following conditions, whether or not stipulated in the contract of loan:

- (1) The amount of loans to any one borrower outstanding at any one time shall not exceed \$3,000.
- (2) The loans shall be repaid upon an amortization plan by means of a fixed number of annual installments sufficient to cover (a) interest on the unpaid principal at the rate of 5 per centum per annum, and (b) such amount of the principal as will extinguish the debt within an agreed period not exceeding thirty years. The moneys received by the commission from any installment paid upon such loan shall be covered into the fund. The payment of any installment due shall, with the concurrence therein of at least three of the five members of the commission, be postponed in whole or in part by the commission for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponed payments shall continue to bear interest at the rate of 5 per centum per annum on the unpaid principal and interest.
- (3) In case the borrower's interest in his tract or his successor's interest therein is transferred to or mortgaged, pledged, or otherwise held for the benefit of any native Hawaiian, or agreed so to be transferred, mortgaged, pledged, or otherwise held, as permitted by paragraph (5) of section 208 of this title, the commission may at its option declare all annual installments upon the loan immediately due and payable or permit the successor to the borrower's interest in the tract to assume the contract of loan. In case of the borrower's death, the commission shall permit the successor to the borrower's interest in the tract to assume the contract of loan.

(4) No part of the moneys loaned shall be devoted to any purpose other than those for which the loan is made.

(5) The borrower or the successor to his interest in the tract shall comply with such other conditions, not in conflict with any provision of this title, as the commission may stipulate in the contract of loan.

(6) The borrower or the successor to his interest in the tract shall comply with the conditions enumerated in section 208, and with the provisions of section 209 of this title in respect to the lease of the tract.

Sec. 216. The commission may require the borrower to insure, in such amount as the commission may by regulation prescribe, all live stock and dwellings and other permanent improvements upon his tract, purchased or constructed out of any moneys loaned from the fund; or in lieu thereof the commission may directly take out such insurance and add the cost thereof to the amount of the annual installments payable under the amortization plan. Whenever the commission has reason to believe that the borrower has violated any condition enumerated in paragraphs (2), (4), (5), or (6) of section 215 of this title, the commission shall give due notice and afford opportunity for a hearing to the borrower or the successor to his interest in the tract, as the case demands. If upon such hearing the commission finds that the borrower has violated the condition, the commission may declare all annual installments immediately due and payable, notwithstanding any provision in the contract of loan to the contrary. The commission shall have a lien upon the borrower's or lessee's interest in his tract, dwellings, and other permanent improvements thereon, and his live stock to the amount of all annual installments due and unpaid and of all taxes upon such tract and improvements paid by the commission. Such liens shall have priority over any other obligation for which the tract, dwellings, other improvements, or live stock may be security.

The commission may, at such time as it deems advisable, enforce any such lien by declaring the borrower's interest in his tract or his successor's interest therein, as the case may be, together with the dwellings and other permanent improvements thereon and the live stock, to be forfeited, and the lease in respect to such tract canceled, and shall thereupon order the tract to be vacated and the live stock surrendered within a reasonable time. The right to the use and occupancy of the Hawaiian home lands contained in such tract shall thereupon revert in the commission, and the commission may take possession of the tract and the improvements thereon: Provided, That the commission shall pay to the borrower any difference in his favor between (1) the fair value of the live stock and any improvements in respect to the tract made by the borrower or any predecessor to his interest in the tract, and (2) the amount of the lien.

Sec. 217. In case the lessee or borrower or the successor to his interest in the tract, as the case may be, fails to comply with any order issued by the commission under the provisions of section 210 or 216 of this title, the commission may (1) bring action of ejectment or other appropriate proceeding, or (2) invoke the aid of the circuit court of the Territory for the judicial circuit in which the tract designated in the commission's order is situated. Such court may thereupon order the lessee or his successor to comply with the order of the commission. Any failure to obey the order of the court may be punished by it as contempt thereof. Any tract forfeited under the provisions of section 210 or 216 of this title may be again leased by the commission as authorized by the provisions of section 207 of this title, except that the value, in the opinion of the commission, of all improvements made in respect to such tract by the original lessee or any successor to his interest therein shall constitute a loan by the commission to the new lessee. Such loan shall be subject to the provisions of this section and sections 215 except paragraph (1), and 216 to the same extent as loans made by the commission from the Hawaiian loan fund.

Sec. 218. No lessee of any tract or any successor to his interest therein shall be eligible to receive in respect to such tract any loan made under the provisions of the act of the legislature of the Territory entitled "the Farm Loan Act of Hawaii," approved April 30, 1919.

Sec. 219. The commission is authorized to employ agricultural experts at such compensation and in such number as it deems necessary. The annual expenditures for such compensation shall not exceed \$6,000. It shall be the duty of such agricultural experts to instruct and advise the lessee of any tract or the successor to the lessee's interest therein as to the best methods of diversified farming and stock raising, and such other matters as will tend successfully to accomplish the purpose of this title.

Sec. 220. The commission is hereby authorized directly to undertake and carry on general water and other development projects in respect to Hawaiian home lands. The legislature of the Territory is authorized to appropriate out of the treasury of the Territory such sums as it deems necessary to provide the commission with funds sufficient to execute such projects. The legislature is further authorized to issue bonds to the extent required to yield the amount of any sum so appropriated. The commission shall pay from the Hawaiian home loan fund into the treasury of the Territory:

(1) Upon the date when any interest payment becomes due upon any bond so issued, the amount of the interest then due; and

(2) Commencing with the first such date more than one year subsequent to the issuance of any bond at each interest date thereafter, an amount such that the aggregate of all such

amounts which become payable during the term of the bond, compounded annually at the rate of interest specified therein, shall equal the par value of the bond at the expiration of its term.

Sec. 221. (a) When used in this section --

(1) The term "water license" means any license issued by the commissioner of public lands granting to any person the right to the use of Government-owned water; and

(2) The term "surplus water" means so much of any Government-owned water covered by a water license or so much of any privately owned water as is in excess of the quantity required for the use of the licensee or owner, respectively.

(b) All water licenses issued after the passage of this Act shall be deemed subject to the condition, whether or not stipulated in the license, that the licensee shall, upon the demand of the commission, grant to it the right to use, free of all charge, any water which the commission deems necessary adequately to supply the live stock or the domestic needs of individuals upon any tract.

(c) In order adequately to supply live stock or the domestic needs of individuals upon any tract, the commission is authorized (1) to use, free of all charge, Government-owned water not covered by any water license or covered by a water license issued after the passage of this Act or covered by a water license issued previous to the passage of this Act but containing a reservation of such water for the benefit of the public, and (2) to contract with any person for the right to use or to acquire, under eminent domain proceedings similar, as near as may be, to the proceedings provided in respect to land by sections 667 to 678, inclusive, of the Revised Laws of Hawaii of 1915, the right to use any privately owned surplus water or any Government-owned surplus water covered by a water license issued previous to the passage of this Act, but not containing a reservation of such water for the benefit of the public. Any such acquirement shall be held to be for a public use and purpose. The commission may institute the eminent domain proceedings in its own name.

(d) The commission is authorized, for the additional purpose of adequately irrigating any tract, to use, free of all charge, Government-owned water upon the island of Molokai and Government-owned surplus water tributary to the Waimea River upon the island of Kauai, not covered by a water license or covered by a water license issued after the passage of this Act. Any water license issued after the passage of this Act and covering any such Government-owned water shall be deemed subject to the condition, whether or not stipulated therein, that the licensee shall, upon the demand of the commission, grant to it the right to use, free of all charge, any of the water upon the island of Molokai, and any of the surplus

water tributary to the Waimea River upon the island of Kauai, which is covered by the license and which the commission deems necessary for the additional purpose of adequately irrigating any tract.

(e) All rights conferred on the commission by this section to use, contract for, acquire the use of water shall be deemed to include the right to use, contract for, or acquire the use of any ditch or pipe line constructed for the distribution and control of such water and necessary to such use by the commission.

Sec. 222. The commission may make such regulations and, with the approval in writing of the governor of the Territory, may make such expenditures including salaries, and appoint and remove such employees and agents, as are necessary to the efficient execution of the functions vested in the commission by this title. All expenditures of the commission shall be allowed and paid, and all moneys necessary for loans made by the commission in accordance with the provisions of this title advanced, from the Hawaiian home loan fund upon the presentation of itemized vouchers therefor, approved by the chairman of the commission. The commission shall make a biennial report to the legislature of the Territory upon the first day of each regular session thereof and such special reports as the legislature may from time to time require. The executive officer and secretary shall give bond in the sum of \$25,000 for the faithful performance of his duties. The sureties upon the bond and the conditions thereof shall be approved annually by the commission.

Sec. 223. The Congress of the United States reserves the right to alter, amend, or repeal the provisions of this title.

Title 3. -- Amendments to Hawaiian Organic Act.

Sec. 301. Section 26 of the Hawaiian Organic Act is hereby amended to read as follows:

"Sec. 26. That the members of the legislature shall receive for their services, in addition to mileage at the rate of 20 cents a mile each way, the sum of \$1,000 for each regular session, payable in three equal installments on and after the first, thirtieth, and fiftieth days of the session, and the sum of \$500 for each special session: Provided, That they shall receive no compensation for any extra session held under the provisions of section 54 of this Act."

Sec. 302. Section 55 of the Hawaiian Organic Act is hereby amended by deleting therefrom that portion thereof which reads: "Provided, That no corporation, domestic or foreign, shall acquire and hold real estate in Hawaii in excess of one thousand acres, and all real estate acquired or held by such corporation or association contrary hereto shall be forfeited and escheat to the United States, but existing vested rights in real estate shall not be impaired," and by amending so much of section 55 as reads, "and the total indebtedness of the Territory shall not at any time be extended beyond 7 per centum of such assessed value of

property in the Territory," to read as follows" and the total indebtedness of the Territory shall not at any time be extended beyond 10 per centum of such assessed value of property in the Territory."

Sec. 303. Section 66 of the Hawaiian Organic Act is hereby amended to read as follows:

"Sec. 66. That the executive power of the government of the Territory of Hawaii shall be vested in a governor, who shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and shall hold office for four years and until his successor shall be appointed and qualified, unless sooner removed by the President. He shall be not less than thirty-five years of age; shall be a citizen of the Territory of Hawaii; shall have resided therein for at least three years next preceding his appointment; shall be commander in chief of the militia thereof; and may grant pardons or reprieves for offenses against the laws of the said Territory and reprieves for offenses against the laws of the the United States until the decision of the President is made known thereon."

Sec. 304. The first, second, and third paragraphs of section 73 of the Hawaiian Organic Act are hereby amended to read as follows:

"Sec. 73. (a) That when used in this section --

"(1) The term 'commissioner' means the commissioner of public lands of the Territory of Hawaii;

"(2) The term 'land board' means the board of public lands, as provided in subdivision (1) of this section;

"(3) The term 'public lands' includes all lands in the Territory of Hawaii classed as government or crown lands previous to August 15, 1895, or acquired by the government upon or subsequent to such date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; except (1) lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, (2) lands set apart or reserved by Executive order by the President, (3) lands set aside or withdrawn by the governor under the provisions of subdivision (g) of this section, (4) sites of public buildings, lands used for roads, streets, landings, nurseries, parks, tracts reserved for forest growth or conservation of water supply, or other public purposes, and (5) lands to which the United States has relinquished the absolute fee and ownership, unless subsequently placed under the control of the commissioner and given the status of public lands in accordance with the provisions of this Act, the Hawaiian Homes Commission Act, 1920, or the Revised Laws of Hawaii of 1915; and

"(4) The term 'person' includes individual, partnership, corporation, and association.

"(b) Any term defined or described in section 347 or 351 of the Revised Laws of Hawaii of 1915, except a term defined in subdivision (a) of this section, shall, whenever used in this section, if not inconsistent with the context or any provision of this section, have the same meaning as given it by such definition or description.

"(c) The Laws of Hawaii relating to public lands, the settlement of boundaries, and the issuance of patents on land commission awards, except as changed by this Act, shall continue in force until Congress shall otherwise provide. Subject to the approval of the President, all sales, grants, leases, and other dispositions of the public domain, and agreements concerning the same, and all franchises granted by the Hawaiian government in conformity with the laws of Hawaii, between the 7th day of July, 1898, and the 28th day of September, 1899, are hereby ratified and confirmed. In said laws 'land patent' shall be substituted for 'royal patent'; 'commissioner of public lands,' for 'minister of the interior,' 'agent of public lands,' and 'commissioners of public lands,' or their equivalents; and the words 'that I am a citizen of the United States,' or 'that I have declared my intention to become a citizen of the United States, as required by law,' for the words 'that I am a citizen by birth (or naturalization) of the Republic of Hawaii,' or 'that I have received letters of denization under the Republic of Hawaii,' or 'that I have received a certificate of special right of citizenship from the Republic of Hawaii.'

"(d) No lease of agricultural lands or of undeveloped arid public land which is capable of being converted into agricultural land by the development, for irrigation purposes, of either the underlying or adjacent waters, or both, shall be granted, sold, or renewed by the government of the Territory of Hawaii for a longer period than fifteen years. Each such lease shall be sold at public auction to the highest bidder after due notice as provided in subdivision (h) of this section and the laws of the Territory of Hawaii. Each such notice shall state all the terms and conditions of the sale. The land, or any part thereof so leased, may at any time during the term of the lease be withdrawn from the operation thereof for homestead or public purposes, in which case the rent reserved shall be reduced in proportion to the value of the part so withdrawn. Every such lease shall contain a provision to that effect; Provided, That the commissioner may, with the approval of the governor and at least two-thirds of the members of the land board, omit such withdrawal provision from the lease of any lands suitable for the cultivation of sugar cane whenever he deems it advantageous to the Territory of Hawaii. Land so leased shall not be subject to such right of withdrawal.

"(e) All funds arising from the sale or lease or other disposal of public land shall be appropriated by the laws of the government of the Territory of Hawaii and applied to such uses and purposes for the benefit of the inhabitants of the

Territory of Hawaii as are consistent with the joint resolution of annexation, approved July 7, 1898.

"(f) No person shall be entitled to receive any certificate of occupation, right of purchase lease, cash freehold agreement, or special homestead agreement who, or whose husband or wife, has previously taken or held more than ten acres of land under any such certificate, lease, or agreement made or issued after May 27, 1910, or under any homestead lease or patent based thereon; or who, or whose husband or wife, or both of them, owns other land in the Territory, the combined area of which and the land in question exceeds eighty acres; or who is an alien, unless he has declared his intention to become a citizen of the United States as provided by law. No person who has so declared his intention and taken or held under any such certificate, lease, or agreement shall continue so to hold or become entitled to a homestead lease or patent of the land, unless he becomes a citizen within five years after so taking.

"(g) No public land for which any such certificate, lease, or agreement is issued after May 27, 1910, or any part thereof, or interest therein or control thereof, shall, without the written consent of the commissioner and governor, thereafter, whether before or after a homestead lease or patent has been issued thereon, be or be contracted to be in any way, directly or indirectly, by process of law or otherwise, conveyed, mortgaged, leased, or otherwise transferred to, or acquired or held by or for the benefit of, any alien or corporation; or before or after the issuance of a homestead lease or before the issuance of a patent to or by or for the benefit of any other person; or, after the issuance of a patent, to or by or for the benefit of any person who owns, or holds, or controls, directly or indirectly, other land or the use thereof, the combined area of which and the land in question exceeds eighty acres. The prohibitions of this paragraph shall not apply to transfers or acquisitions by inheritance or between tenants in common."

Sec. 305. The fourth and fifth paragraphs of section 73 of the Hawaiian Organic Act are hereby amended by inserting "(h)" at the beginning of the fourth paragraph and "(i)" at the beginning of the fifth paragraph.

Sec. 306. The sixth paragraph of section 73 of the Hawaiian Organic Act is hereby amended to read as follows:

"(j) The commissioner, with the approval of the governor, may give to any person (1) who is a citizen of the United States or who has legally declared his intention to become a citizen of the United States and hereafter becomes such, and (2) who has, or whose predecessors in interest have, improved any parcel of public lands and resided thereon continuously for the ten years next preceding the application to purchase, a preference right to purchase so much of such parcel and such adjoining land as may reasonably be required for a home, at a

fair price to be determined by three disinterested citizens to be appointed by the governor. In the determination of such purchase price the commissioner may, if he deems it just and reasonable, disregard the value of the improvements on such parcel and adjoining land. If such parcel of public lands is reserved for public purposes, either for the use of the United States or the Territory of Hawaii, the commissioner may with the approval of the governor grant to such person a preference right to purchase public lands which are of similar character, value, and area, and which are situated in the same land district. The privilege granted by this paragraph, shall not extend to any original lessee or to an assignee of an entire lease of public lands."

Sec. 307. The seventh paragraph of section 73 of the Hawaiian Organic Act is hereby amended by inserting "(k)" at the beginning thereof.

Sec. 308. The eighth paragraph of section 73 of the Hawaiian Organic Act is hereby amended to read as follows:

"(l) No sale of lands for other than homestead purposes, except as herein provided, and no exchange by which the Territory shall convey lands exceeding either forty acres in area or \$5,000 in value shall be made. No lease of agricultural lands exceeding forty acres in area, or of pastoral or waste lands exceeding two hundred acres in area, shall be made without the approval of two-thirds of the board of public lands, which is hereby constituted, the members of which are to be appointed by the governor as provided in section 80 of this Act, and until the legislature shall otherwise provide said board shall consist of six members, and its members be appointed for a term of four years: Provided, however, That the commissioner shall, with the approval of said board, sell to any citizen of the United States, or to any person who has legally declared his intention to become a citizen, for residence purposes lots and tracts, not exceeding three acres in area, and that sales of Government lands may be made upon the approval of said board whenever necessary to locate thereon railroad rights of way, railroad tracks, side tracks, depot grounds, pipe lines, irrigation ditches, pumping stations, reservoirs, factories, and mills and appurtenances thereto, including houses for employees, mercantile establishments, hotels, churches, and private schools; and all such sales shall be limited to the amount actually necessary for the economical conduct of such business or undertaking: Provided further, That no exchange of Government lands shall hereafter be made without the approval of two-thirds of the members of said board, and no such exchange shall be made except to acquire lands directly for public uses."

Sec. 309. The ninth paragraph of section 73 of the Hawaiian Organic Act is hereby amended by inserting "(m)" at the beginning thereof.

Sec. 310. The tenth paragraph of section 73 of the Hawaiian Organic Act is hereby amended to read as follows:

"(n) It shall be the duty of the commissioner to cause to be surveyed and opened for homestead entry a reasonable amount of desirable agricultural lands and also of pastoral lands in the various parts of the Territory for homestead purposes on or before January 1, 1911, and he shall annually thereafter cause to be surveyed for homestead purposes such amount of agricultural lands and pastoral lands in various parts of the Territory as there may be demand for by persons having the qualifications of homesteaders. In laying out any homestead the commissioner shall include in the homestead lands sufficient to support thereon an ordinary family, but not exceeding eighty acres of agricultural lands and two hundred and fifty acres of first-class pastoral lands or five hundred acres of second-class pastoral lands; or in case of a homestead, including pastoral lands only, not exceeding five hundred acres of first-class pastoral lands or one thousand acres of second-class pastoral lands. All necessary expenses for surveying and opening of any such lands for homesteads shall be paid for out of any funds of the Territorial treasury derived from the sale or lease of the public lands, which funds are hereby made available for such purposes.

"(o) The commissioner, with the approval of the governor, may by contract or agreement authorize any person who has the right of possession, under a general lease from the Territory, of agricultural or pastoral lands included in any homestead, to continue in possession of such lands after the expiration of the lease until such time as the homesteader takes actual possession thereof under any form of homestead agreement. The commissioner may fix in the contract or agreement such other terms and conditions as he deems advisable."

Sec. 311. The eleventh and twelfth paragraphs of section 73 of the Hawaiian Organic Act are hereby amended by inserting "(p)" at the beginning of the eleventh paragraph and "(q)" at the beginning of the twelfth paragraph.

Sec. 312. The fourth paragraph of section 80 of the Hawaiian Organic Act is hereby amended to read as follows:

"All officers appointed under the provisions of this section shall be citizens of the Territory of Hawaii and shall have resided therein for at least three years next preceding their appointment."

Sec. 313. Section 86 of the Hawaiian Organic Act is hereby amended to read as follows:

"Sec. 86. (a) That there shall be established in the said Territory a district court, to consist of two judges, who shall reside therein and be called district judges, and who shall each receive an annual salary of \$7,500. The said court while in session shall be presided over by only one of said

judges. The two judges shall from time to time, either by order or rules of the court, prescribe at what times and in what class of cases each of them shall preside. The said two judges shall have the same powers in all matters coming before said court."

"(b) The President of the United States, by and with the advice and consent of the Senate of the United States, shall appoint two district judges, a district attorney, and a marshal of the United States for the said district, all of whom shall be citizens of the Territory of Hawaii and shall have resided therein for at least three years next preceding their appointment. Said judges, attorney, and marshal shall hold office for six years unless sooner removed by the President.

"(c) The said court shall have, in addition to the ordinary jurisdiction of district courts of the United States, jurisdiction of all cases cognizable in a circuit court of the United States, and shall proceed therein in the same manner as a circuit court; and the said judges, district attorney, and marshal shall have and exercise in the Territory of Hawaii all the powers conferred by the laws of the United States upon the judges, district attorneys, and marshals of district and circuit courts of the United States.

"(d) Writs of error and appeal from the said district court shall be had and allowed to the circuit court of appeals for the ninth judicial circuit in the same manner as writs of error and appeals are allowed from circuit courts to circuit courts of appeal as provided by law, and appeals and writs of error may be taken to the Supreme Court of the United States from said district court in cases where appeals and writs of error are allowed from the district and circuit courts of the United States to the Supreme Court, and the laws of the United States relating to juries and jury trials shall be applicable to said district court. The laws of the United States relating to appeals, writs of error, removal of causes, and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii. Regular terms of said court shall be held at Honolulu on the second Monday in April and October, and special terms may be held at such times and places in said district as the said judges may deem expedient. The said district judges shall appoint a clerk of said court at a salary of \$4,200 per annum and shall appoint a reporter of said court at a salary of \$3,000 per annum. The clerk of the district court with the approval of the judges thereof may appoint two deputy clerks at salaries of \$2,500 each per annum."

Sec. 314. Section 92 of the Hawaiian Organic Act is hereby amended to read as follows:

"Sec. 92. That the following officers shall receive the following annual salaries, to be paid by the United States:

The governor, \$10,000; the secretary of the Territory, \$5,400; the chief justice of the Supreme Court of the Territory, \$7,500; the associate judges of the Supreme Court, \$7,000 each; the judges of the circuit courts, \$6,000 each; the United States district attorney, \$5,000; the United States marshal, \$5,000. The governor shall receive annually from the United States, in addition to his salary, (1) the sum of \$1,000 for stationery, postage, and incidentals, and (2) his traveling expenses while absent from the capital on official business. The governor is authorized to employ a private secretary who shall receive an annual salary of \$3,000, to be paid by the United States."

Sec. 315. The Hawaiian Organic Act is hereby further amended by adding at the end thereof three additional sections to read as follows:

"Sec. 105. That no person shall be employed as a mechanic or laborer upon any public work carried on in the Territory of Hawaii by the Government of the United States, whether the work is done by contract or otherwise, unless such person is a citizen of the United States or eligible to become such a citizen.

"Sec. 106. The board of harbor commissioners of the Territory of Hawaii shall have and exercise all the powers and shall perform all the duties which may lawfully be exercised by or under the Territory of Hawaii relative to the control and management of the shores, shore waters, navigable streams, harbors, harbor and water-front improvements, ports, docks, wharves, quays, bulkheads, and landings belonging to or controlled by the Territory, and the shipping using the same, and shall have the authority to use and permit and regulate the use of the wharves, piers, bulkheads, quays, and landings belonging to or controlled by the Territory for receiving or discharging passengers and for loading and landing merchandise, with a right to collect wharfage and demurrage thereon or therefor, and, subject to all applicable provisions of law, to fix and regulate from time to time rates for services rendered in mooring vessels, charges for the use of moorings belonging to or controlled by the Territory, rates or charges for the services of pilots, wharfage, or demurrage, rents or charges for warehouses or warehouse space, for office or office space, for storage of freight, goods, wares, and merchandise, for storage space for the use of donkey engines, derricks, or other equipment belonging to the Territory, under the control of the board, and to make other charges, including toll or tonnage charges on freight passing over or across wharves, docks, quays, bulkheads, or landings. The board shall likewise have power to appoint and remove clerks, wharfingers and their assistants, pilots and pilot-boat crews, and all such other employees as may be necessary, and to fix their compensation; to make rules and regulations pursuant to this section and not inconsistent with law; and generally shall have all powers necessary fully to carry out the provisions of this section.

"All moneys appropriated for harbor improvements, including new construction, reconstruction, repairs, salaries, and operating expenses, shall be expended under the supervision

and control of the board, subject to the provisions of law. All contracts and agreements authorized by law to be entered into by the board shall be executed on its behalf by its chairman.

"The board shall prepare and submit annually to the governor a report of its official acts during the preceding year, together with its recommendations as to harbor improvements throughout the Territory.

"Sec. 107. That this Act may be cited as the 'Hawaiian Organic Act.'"

Title 4. -- Miscellaneous Provisions.

Sec. 401. All Acts or parts of Acts, either of the Congress of the United States or of the Territory of Hawaii, to the extent that they are inconsistent with the provisions of this Act, are hereby repealed.

Sec. 402. If any provision of this Act, or the application of such provision to certain circumstances, is held unconstitutional, the remainder of the Act and the application of such provision to circumstances other than those as to which it is held unconstitutional shall not be held invalidated thereby.

Approved, July 9, 1921.